

CHAPTER 505
INTERSTATE MOTOR VEHICLE FUEL LICENSES AND PERMITS

[Prior to 6/3/87, Transportation Department[820]—(07.F) Ch7]

761—505.1(452A) Definitions.

“*Department*” means the Iowa department of transportation.

“*Fuel(s)*” means and includes motor fuel and special fuel as defined in Iowa Code section 452A.2.

“*Fuel license*” or “*license*” means an International Fuel Tax License issued pursuant to Iowa Code section 452A.53.

“*IFTA member jurisdiction*” means a jurisdiction that is a member of the International Fuel Tax Agreement. A list of jurisdictions and their membership statuses may be obtained by contacting the office of motor carrier services.

“*International Fuel Tax Agreement (IFTA)*” is a multijurisdiction agreement for the administration of motor fuel tax laws for vehicles operated in multiple member jurisdictions.

“*Lease*” means a contract or agreement by which a vehicle owner (lessor) provides a vehicle to a person or company (lessee) for use during a specified period of time.

1. “*Long-term lease*” means a lease for a period of 30 days or more.

2. “*Short-term lease*” means a lease for a period of 29 days or less including trip leases. Back-to-back leases of 29 days or less are considered short-term leases.

“*Licensee*” means any person who holds a valid fuel license.

“*Non-IFTA member jurisdiction*” means a jurisdiction that is not a member of the International Fuel Tax Agreement. A list of jurisdictions and their membership statuses may be obtained by contacting the office of motor carrier services.

“*Permittee*” means any person who holds a valid temporary fuel permit.

“*Qualified motor vehicle*” means a motor vehicle or combination of vehicles used or designed to transport persons or property if any of the following apply:

1. The vehicle or combination of vehicles weighs more than 26,000 pounds.

2. The vehicle or combination of vehicles is registered for more than 26,000 pounds.

3. The power unit has three or more axles.

“*Qualified motor vehicle*” does not include recreational vehicles.

“*Quarter*” means calendar quarter, January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31.

“*Temporary fuel permit*” or “*temporary permit*” means a single trip fuel permit issued pursuant to Iowa Code section 452A.53.

In addition to the preceding definitions, all of the definitions contained in Iowa Code sections 452A.2 and 452A.57 shall govern the rules in this chapter, where not inconsistent with the above definitions.

This rule is intended to implement Iowa Code sections 452A.2 and 452A.57.

761—505.2(452A) General information.

505.2(1) Location. Applications, forms and information on interstate motor vehicle fuel permits and licenses are available by mail from the Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at its location in Park Fair Mall, 100 Euclid Avenue, Des Moines, Iowa; by telephone (515)237-3264; or by facsimile (515) 237-3257.

505.2(2) Organizational data. The office of motor carrier services of the department’s motor vehicle division is authorized, pursuant to Iowa Code chapter 452A, division III, to:

a. Issue fuel licenses or temporary fuel permits.

b. Compute and collect interstate motor fuel taxes.

c. Refund overpayments of interstate fuel taxes.

d. Administer agreements with other jurisdictions for the collection and refund of interstate motor fuel tax. In accordance with this, the department has adopted the International Fuel Tax Agreement (IFTA). Such agreement and any revisions thereto are hereby incorporated into this chapter. International Fuel Tax Agreement governing documents do not create rights in the taxpayer. A copy of the agreement may be obtained by contacting the office of motor carrier services or may be reviewed through the Internet at www.iftach.org.

505.2(3) Waiver of rules. In accordance with 761—Chapter 11, the director of transportation may, in response to a petition, waive provisions of this chapter. A waiver shall not be granted unless the director finds that special or emergency circumstances exist.

“Special or emergency circumstances” means one or more of the following:

- a.* Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.
- b.* Circumstances where the movement is necessary to cooperate with national defense officials.
- c.* Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.
- d.* Circumstances where the movement is essential to ensure safety and protection of any person or property due to events such as, but not limited to, pollution of natural resources, a potential fire or an explosion.
- e.* Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.
- f.* Circumstances where the movement involves emergency-type vehicles.
- g.* Uncommon or extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazard to the safety of the traveling public or undue damage to private or public property.

This rule is intended to implement Iowa Code sections 452A.51 and 452A.56.

761—505.3(452A) General stipulations.

505.3(1) IFTA member requirements. In order to enter this state and not be in violation of Iowa Code section 452A.52, the operator of the qualified motor vehicle based in an IFTA member jurisdiction must do one of the following:

- a.* Possess a fuel license pursuant to Iowa Code section 452A.53.
- b.* Purchase a temporary fuel permit pursuant to Iowa Code section 452A.53 and subrule 505.3(9) when entering or before entering the state.

505.3(2) Non-IFTA member requirements. The operator of a qualified motor vehicle based in a non-IFTA member jurisdiction must do one of the following:

- a.* Possess a fuel license pursuant to Iowa Code section 452A.53.
- b.* Purchase a temporary fuel permit pursuant to Iowa Code section 452A.53 and subrule 505.3(9) when entering or before entering the state.
- c.* Enter the state with 30 gallons of fuel or less.
- d.* Enter the state with only Iowa tax paid fuel.

505.3(3) Determination of fuel supply. To determine if a vehicle has entered the state with more than 30 gallons of fuel, the total of all fuel in all tanks that could be used to fuel the power source of the vehicle shall be considered to reach a total gallonage. The fuel tank connected to a “reefer unit” which can neither be directly nor indirectly connected to the power source of the vehicle shall not be considered in arriving at the 30 gallon total.

505.3(4) Fuel license.

a. A fuel license may be obtained from the office of motor carrier services at a cost of \$10. The application must be complete and include, but not be limited to, the following information:

- (1) Name and address of company, corporation, or owner who operates or controls the qualified motor vehicle(s);
- (2) Name(s) and address(es) of principal or corporate officers;
- (3) Signature and telephone number of contact person; and
- (4) A power of attorney if someone other than an officer or employee of the company will be completing quarterly reports or requesting information from the department.

b. The fuel license remains valid until canceled or revoked. The reporting and computation procedure for a fuel license allows for the payment of taxes due and a refund of any overpayment. All persons holding a valid fuel license must file quarterly reports with the department.

505.3(5) Number of temporary permits or licenses required. No vehicle may operate under more than one license or temporary permit at a time.

505.3(6) Possession of the license or temporary permit. A license or temporary permit must be carried in the vehicle to meet the requirements of Iowa Code chapter 452A. Several vehicles may be operated and reported under the same license by making a photocopy of the license and carrying it in each vehicle operating under said license. A license, copy of a license or temporary permit is void if altered. A duplicate license may be purchased from the office of motor carrier services for a charge of 50 cents.

505.3(7) Cancellation and reissuance.

a. If a qualified motor vehicle operating under a license is consistently operated only within the state or only outside the state, the licensee or the department shall request that the license be canceled for nonuse.

b. A fuel license that has been canceled for cause pursuant to Iowa Code section 452A.68 may be reinstated if a bond is filed.

505.3(8) Bond requirements.

a. Bonds shall be required in the following situations:

- (1) When a previous fuel licensee is reapplying for a fuel license and has two or more outstanding fuel billings due for periods within the three years prior to date of application for a new license;
- (2) When a previous fuel licensee is reapplying for a new fuel license and has failed to file two or more reports for a calendar year within the three years prior to date of application for a new license;
- (3) When a previous fuel licensee is reapplying for a new license and has filed reports late for two or more reporting periods for a calendar year within the three years prior to date of application for a new fuel license; or
- (4) When an audit indicates problems severe enough that a bond is required to protect the interests of member jurisdictions.

b. Bonds required shall be payable to the state of Iowa, in the minimum amount of \$500 or the equivalent to at least twice the estimated average tax liability for the reporting period in which the licensee will be required to file a tax return, whichever is greater.

c. A copy of such bond shall be filed with the office of motor carrier services before a new license shall be issued. The office of motor carrier services shall be notified of bond cancellation 30 days before the cancellation is effective.

505.3(9) Temporary fuel permits.

a. A temporary fuel permit may be obtained by any person operating a qualified motor vehicle that is not otherwise covered by a license. The temporary permit may be obtained from the office of motor carrier services at a cost of \$20. The temporary permit may also be obtained from permit services, processing agents or truck stops designated by the department. A designated list of authorized business locations may be obtained from the office of motor carrier services upon request. An application for a temporary permit may be made by phone, facsimile or electronically to the office of motor carrier services. Permittees who purchase temporary fuel permits in advance of use may not return unused permits for refund.

b. The temporary fuel permit is valid for 72 consecutive hours from the date and hour appearing on the temporary permit or upon departure from Iowa, whichever occurs first. A new temporary permit is required in order to reenter the state. While a permittee is operating under a temporary permit, unlimited travel is allowed within Iowa. No refund of tax paid on overpurchases of Iowa fuel is allowed.

c. Application may be made to the office of motor carrier services or at locations designated by the department. Alternate locations designated shall be approved "truck stops" as defined in Iowa Code section 326.23. These truck stops shall obtain prepaid temporary fuel permits at a cost of \$20 each. If a truck stop subsequently ceases to sell temporary permits, the remaining unissued permits may be redeemed at the office of motor carrier services for the same price paid to obtain them. When a temporary permit is purchased from the truck stop, it shall be issued at a price of \$20 plus any specific cost attributable directly to that purchase. The effective date of a temporary fuel permit shall be the date and hour of purchase from the truck stop.

d. An application for a temporary fuel permit shall include, but is not limited to, the following information:

- (1) The name and address of the person who owns or controls the vehicle;
- (2) The make, year, serial number, license number, and unit number of the vehicle; and
- (3) The address to which the temporary permit is to be sent, if applicable.

e. The temporary permit fee shall also accompany the application unless a method of collection upon delivery is requested.

f. A temporary permit shall not be transferred and is valid only for the carrier and the vehicle that are described on the permit. Once a temporary permit has been issued to a qualified motor vehicle, the purchase price is nonrefundable.

g. The temporary permit must be completed and carried in the qualified motor vehicle for which it is issued.

h. The 72-hour period for which the temporary permit is valid may be extended for "emergencies," such as extreme weather conditions when travel is not advisable or other instances, at the discretion of the office of motor carrier services.

i. A temporary fuel permit is invalid if the permittee has outstanding IFTA fuel tax bills.

j. Fees for a temporary permit may be paid by cash, company or personal check, or credit card through Vital Chek. At the discretion of the department, a payment procedure may also be established to allow for monthly billing. The following procedures shall apply:

(1) Applicants shall deposit sufficient funds with the permit-issuing authority to guarantee payment of fees for the average number of permits ordered monthly. Deposits may be used to pay outstanding fees due when payment is not received upon billing.

(2) Monthly billings shall be sent to account holders.

(3) All future permit activity may be suspended after written notice of suspension to the account holder when the following requirements are not met:

1. Payment shall be received within 30 days from the date of the billing.

2. All information listed on the account holder's permit shall match the information listed on the permit-issuing authority's permit.

(4) Account privileges may be permanently canceled for cause after written notice to the account holder.

(5) Any account holder in good standing may close the account and request return of the deposit. Accounts closed under these circumstances may be reopened.

505.3(10) *Qualified motor vehicles on lease.*

a. Long-term lease. Under normal circumstances the lessee is responsible for reporting all mileage and fuel activity unless otherwise specified by the lease. Supporting documentation including the lease must be made available to confirm the responsibility.

b. Short-term lease. The lessor is responsible for reporting all mileage and fuel activity unless otherwise specified by the lease. Supporting documentation such as a maintenance agreement or lease must be made available to confirm the responsibility.

c. Purchase receipts. Purchase receipts must be made out in the name of the lessor, lessee or cash and must identify the vehicle for which the purchase is made by showing one of the following: vehicle license number, full vehicle identification number (VIN) or fleet unit number.

This rule is intended to implement Iowa Code sections 452A.52, 452A.53, 452A.54, 452A.58 and 452A.68.

761—505.4(452A) Quarterly reports.

505.4(1) *Failure to file.* All valid fuel licensees shall file quarterly reports with the department. If a licensee has not traveled in Iowa, the report shall still be filed. Failure to file is cause for revocation of the license and assessment of a penalty.

505.4(2) *Filing deadline.* All persons holding a valid fuel license, pursuant to the provisions of Iowa Code section 452A.53, shall file quarterly reports with the department and either remit any tax due no later than the last day of the month following the last day of the quarter covered by the report, or request a refund no later than the last day of the third month following the last day of the quarter covered by the report. If the claim for refund is filed after that date, the refund shall be disallowed.

505.4(3) *Reporting multiple vehicles on single license.* The licensee shall select which vehicles may be operated under the license. All miles traveled, interstate and intrastate, and all fuel purchased for those vehicles shall be reported on a consistent basis.

505.4(4) *Tax refund.* Refunds shall be computed separately for each fuel type. If a refund for a fuel type does not exceed \$10, it shall not be processed unless there is more than one type of fuel reported on one return and the combined refunds for all fuel types exceed \$10.

505.4(5) *Refunds of tax on fuel purchased in Iowa and consumed out of Iowa.* Even though fuel is purchased in Iowa, fuel tax is paid in Iowa, and the excess fuel tax paid is subject to refund under the provisions of Iowa Code chapter 452A, division III, relating to interstate motor vehicle operation, the refund is not subject to state sales tax.

505.4(6) *Timely filing of report.*

a. The interstate fuel tax report required under Iowa Code section 452A.54 shall be deemed timely filed if received in the office of motor carrier services or postpaid, properly addressed, and post-marked by the United States Postal Service on or before midnight of the filing deadline. If the filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the filing deadline.

b. All reports and remittances shall be addressed to: Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306.

c. If a report or remittance is not received by the department and the taxpayer can prove by competent evidence that the return or remittance was timely filed, the report shall be considered timely filed. For the purpose of this rule, competent evidence means evidence in addition to the testimony of the sender sufficient or adequate to prove that the document was mailed on a specific date.

505.4(7) Extension of time to file. The department may grant an extension for the filing of any required report or tax payment. In order for an extension to be granted, the application requesting such extension must be filed with the department prior to the due date of the report or remittance. In determining whether an application for extension is timely filed, the provisions of subrules 505.4(2) and 505.4(6) shall apply. The application for extension shall be accompanied by an explanation of the circumstances justifying an extension. Any extension granted shall be documented on a form issued by the department indicating the length of the extension. This form shall be attached to the report when it is filed. If an extension is granted, the penalties under Iowa Code section 452A.65 applicable to a late-filed report or remittance shall not accrue until the expiration of the extension period.

505.4(8) Penalties.

a. A penalty of \$50 or 10 percent of the total tax due, whichever is greater, shall be assessed against the taxpayer if the report is not filed by the due date in accordance with subrule 505.4(6).

b. If the quarterly report shows no taxes owed or a refund due, the penalty for filing a report after the due date is \$50.

505.4(9) Reserved.

505.4(10) Interest. Interest at the rate established pursuant to Iowa Code chapter 421 shall be assessed against the taxpayer for each month the tax remains unpaid. The interest shall accrue from the date the return was required to be filed. Interest shall not apply to any penalty. Each fraction of a month shall be considered a full month for the computation of interest.

505.4(11) Application of remittance. All payments shall be first applied to the interest, then to the penalty and then the balance, if any, on the amount of tax then due.

If a taxpayer remits a payment on or before the due date, but the payment is insufficient to discharge the tax liability, the entire amount of such payment shall apply to the tax. Any penalty or interest subsequently assessed shall be based on the unpaid portion of the tax.

If the department determines there is additional tax due from a taxpayer, interest and penalty shall accrue on that amount from the date the tax should have been reported and paid.

505.4(12) Reports, records and variations. The department shall prescribe and furnish all forms upon which reports, claims for refund, temporary permits, and license applications shall be made under Iowa Code chapter 452A, division III.

a. If the information required in these documents is presented to the department on forms or in a manner other than on the prescribed form, the report, application or claim shall not be deemed "filed."

b. The fact that the reporting party does not have the prescribed form shall not be an acceptable reason for failure to file. The office of motor carrier services may be contacted to request copies of any forms needed.

505.4(13) Estimating gallonage.

a. In the event the taxpayer's records are lacking or inadequate to support any report filed or to determine the tax liability, the department shall have the power to estimate the gallonage upon which tax is due. This estimation shall be based upon such factors as, but not limited to, the following:

- (1) Prior experience of the taxpayer,
- (2) Taxpayers in similar situations,
- (3) Industry averages,
- (4) Records of suppliers or customers, or
- (5) Such other pertinent information as the department may possess, obtain or examine.

b. The findings of the department as to the amount of fuel taxes due from any person shall be presumed to be the correct amount and in any litigation which may follow, the certificate of the department shall be admitted in evidence, shall be considered to be true and accurate unless shown otherwise by an objecting party and shall impose upon the other party the burden of showing any error in the department's finding and the extent thereof, or showing that the finding was contrary to law.

505.4(14) Information confidential. Iowa Code section 452A.63, which makes all information obtained from reports or records required to be filed or kept under Iowa Code chapter 452A confidential, applies generally to the director, auditors, agents, officers, or other employees of the department. However, any person having acquired information disclosed in a taxpayer's filed report shall be bound by the same rules of confidentiality. The information may only be divulged to the appropriate public officials enumerated in Iowa Code section 452A.63.

505.4(15) Taxes erroneously or illegally collected. Any licensee shall be entitled to a refund of taxes, penalties, or interest erroneously or illegally collected by the department or as a result of a computation error. The claim must be filed within a year of payment and accompanied by evidence to support the claim. If the request for refund includes the return of penalties or interest, the interest or penalties shall be refunded in the same proportion as the tax.

505.4(16) Supplemental billings. The amount due is payable upon being billed by the office of motor carrier services. Billings shall be generated by the department for the collection of additional amounts due in the following circumstances:

- a. Penalties are assessed under the provisions of subrule 505.4(8).
- b. Interest is assessed under the provisions of subrule 505.4(10).
- c. An error in the computation on the front of the report results in additional tax due.
- d. There is a failure to remit payment for part or all of the tax due with the filed report.
- e. Payment is remitted and subsequently not honored.
- f. Taxes, penalties or interest are assessed as the result of an audit.

This rule is intended to implement Iowa Code sections 452A.54, 452A.55, 452A.60, 452A.61, 452A.63, 452A.64, and 452A.65.

761—505.5(452A) Audits—required reports.

505.5(1) Delegation to audit and examine. Pursuant to Iowa Code sections 452A.53, 452A.55, and 452A.62, the department reserves the right to examine returns and records, perform audits and determine the correct amount of tax due.

505.5(2) Statute of limitations. Within three years after a return is filed, the department may audit the return to determine the accuracy of taxes paid. There is no time limitation on collection activities for any tax, penalty or interest due the department.

505.5(3) Outstanding tax, penalty, or interest for canceled and inactive licenses. Any outstanding taxes, penalties, or interest must be paid before reapplying for a fuel license.

505.5(4) Audit period—records—costs. The statute of limitations on the determination of any additional tax liability shall be three years after a return is filed; therefore, all records must be kept for four years after a return is filed.

a. For the purpose of verifying the correctness of a return filed or for estimating the tax liability of any taxpayer, the department shall:

(1) Have the right and duty to examine or cause to be examined the books, papers, records, memoranda, or documents of a taxpayer which relate in any manner to fuel taxes.

(2) Have the authority to require, at a hearing, the attendance of the taxpayer and other witness and the production of books, papers, records, memoranda or documents.

b. The cost of an audit shall be at the taxpayer's expense when the records are maintained outside the state of Iowa.

505.5(5) Taxpayers required to keep records. The records required to be kept by this rule shall be preserved for a period of four years after a return is filed unless otherwise stated and shall be open for examination by the department during this period of time. A licensee shall retain invoices or other proofs of purchase which meet the requirements of subrule 505.5(6). The fact that the tax has been paid shall appear on the proof of purchase.

505.5(6) Records to be kept and preserved.

a. Every person required to file a quarterly report under Iowa Code section 452A.54 shall keep and preserve the following records:

- (1) Fuel purchase invoices or documentation of fuel withdrawn from bulk storage.
- (2) Trip sheets or other documentation of mileage activity.

b. Whenever an invoice is required to be kept or prepared by Iowa Code chapter 452A or these rules, the following shall be the minimal requirements which must be complied with:

- (1) It must include the seller's name and address.
- (2) It must include the purchaser's name and address.
- (3) It must contain a vehicle serial number, fleet unit number or vehicle license number.
- (4) It must include the calendar date of purchase.
- (5) It must indicate the type of fuel purchased.
- (6) It must indicate the quantity of fuel purchased.
- (7) It must indicate the total purchase price.
- (8) If the purchase is special fuel, the fact that the fuel tax is included in the purchase price must be indicated.

c. Whenever an invoice is required to be kept under Iowa Code chapter 452A or these rules, the original or duplicate copy must be kept. If the original or duplicate copy is lost or destroyed, a copy, certified by the seller as being a true copy of the original, shall be acceptable.

d. A copy of any invoice, which is required to be kept by the purchaser, must be kept by the seller for the same period of time.

e. Credit card invoices are acceptable if they meet all the requirements listed in paragraphs 505.5(6) "b," "c," and "d" above.

505.5(7) New licensees. When a person is issued a new license, the department may, within one year of issuance of the license, audit the records of the new licensee for a period going back two years from the date of issuance.

505.5(8) Nonlicense and nonpermit holders. All persons who bring into the state a qualified motor vehicle, upon which the Iowa tax on said fuel has not been paid, are operating within the purview of these rules as stated in Iowa Code section 452A.55. They are therefore subject to audit and must keep the same records required of a fuel licensee.

505.5(9) Interstate—intrastate operators—motor vehicle special fuel holding tanks. If a person operates one or more qualified motor vehicles under a fuel license and also operates one or more qualified motor vehicles which are not operated under the fuel license, record keeping regarding the fuel consumed from the special holding tank may be performed in either of the following ways:

a. Operators of interstate vehicles shall be given an invoice that meets the standards set forth in Iowa Code section 452A.17, subsection 3, for each tank fill, and the vehicle operator must then log the mileage; or

b. The licensee shall report total miles driven and total fuel used from the bulk tank, including both interstate and intrastate vehicles.

This rule is intended to implement Iowa Code sections 452A.53, 452A.55, 452A.60, 452A.62, and 452A.69.

761—505.6(452A) Hearings.

505.6(1) Conduct of hearings. Hearings are conducted in accordance with Iowa Code section 452A.69.

505.6(2) Circumstances for holding hearings.

a. When there is reasonable cause to believe that there is an evasion of fuel taxes, the department may cause a hearing to be held to determine the amount of fuel taxes due, if any. The person who is suspected of evading fuel taxes shall be sent at least ten days' notice of the hearing. The provisions of Iowa Code section 452A.64 and subrule 505.4(13), paragraph "b," shall apply.

b. If a licensee disputes the findings of an investigation or audit by the department, the licensee may request a hearing to present further evidence, information or records to support the claim. The written request for hearing shall be directed to the attention of the director of the office of motor carrier services within 30 days of the date of notice of audit results issued by the department.

This rule is intended to implement Iowa Code sections 452A.64 and 452A.69.

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CHAPTERS 506 to 509

Reserved

CHAPTER 510

DESIGNATED HIGHWAY SYSTEM

[Prior to 6/3/87, Transportation Department[820]—(07.A) Ch1]

Rescinded IAB 7/6/94, effective 6/30/94

*Effective date of 505.2, 505.3(2)"a," 505.3(4)"b," 505.3(5)"b," 505.3(6)"c," 505.3(7)"a" and "c," 505.4(12)"b," 505.6(2)"b," June 2, 1993, delayed 70 days by the Administrative Rules Review Committee at its meeting held May 12, 1993; delay lifted by this Committee June 8, 1993, effective June 9, 1993.